

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

UNITED STATES OF AMERICA,)	Criminal Action No. 7:08CR00041-03
)	Civil Action No. 7:11CV80341
v.)	
)	<u>FINAL ORDER</u>
ROBERT DWAYNE EARLY,)	
)	By: Hon. Glen E. Conrad
Defendant.)	Chief United States District Judge

Robert Dwayne Early filed this action as a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. The government moved to dismiss the motion, arguing that Early's claims are without merit. The court took the government's motion under advisement and referred the matter to a United States Magistrate Judge for an evidentiary hearing on Early's claim that counsel provided deficient advice which deprived Early of the opportunity to make an informed decision regarding whether to plead guilty or proceed to trial. The Magistrate Judge was directed to submit a report setting forth appropriate findings of fact, conclusions of law, and a recommended disposition of all of Early's claims, pursuant to 28 U.S.C. § 636(b)(1)(B).

The case is presently before the court on the Magistrate Judge's Report and Recommendation, in which he concludes that Early's claims are without merit and recommends that the court grant the government's motion to dismiss. The parties were given fourteen days to file any objections to the Report and Recommendation. The fourteen-day period has expired, and no objections have been filed by either side. Accordingly, it is hereby

ORDERED

that the Report and Recommendation of the Magistrate Judge is **ADOPTED** in its entirety; the government's motion to dismiss is **GRANTED**; and Early's § 2255 motion is **DISMISSED** and

STRICKEN from the active docket of the court. Additionally, because Early has not made the requisite showing of the denial of a constitutional right, a certificate of appealability is **DENIED**.

The Clerk is directed to send certified copies of this order to the defendant and all counsel of record.

ENTER: This 27th day of December, 2012.

s/ Glen E. Conrad
Chief United States District Judge